

Miller, Paul

From: Ratsep, Timothy T. (DNREC) <Timothy.Ratsep@state.de.us>
Sent: Monday, February 24, 2014 2:08 PM
To: Baggett, Steve
Cc: Cargill IV, John G. (DNREC); Salahuddin, Qazi (DNREC); Kuehl, Robert (DOJ)
Subject: DNREC Response to Amtrak

Steve,

It was my pleasure in having the opportunity to meet with you last Friday. As you are aware our discussion revolved around excavating the impacted soil and building the proposed Locomotive Commissioning building. I spoke to our legal counsel this morning about performing the removal action and building construction under a "Interim Action". I was referred to Section 7 **Del.C.** Ch 9107(e) where it requires a Proposed Plan and Final Plan prior to conducting a remedial action. In addition to the Statue, DOJ referred me to Section 12.3.1 of the 2012 HSCA Regulation where it states "The Department may require or permit an interim action at a facility prior to issuing the Proposed Plan of Remedial Action for the facility where the Department determines that it is consistent with or will not interfere with potential or final remedial actions". DNREC and DOJ concluded "interfere with potential or final remedial actions" would include a structure; therefore DNREC will not allow Amtrak to build on the Site without a Final Plan of Remedial Action. As stated previously, the removal action can be completed as interim action and the DNREC will go as far as allowing the slab/footing be installed but under Ch. 91, will not allow vertical to be built until a Final Plan is issued by DNREC.

In order to meet our statutory/regulatory requirements and still trying to meet your construction timeframe, DNREC would suggest that this portion be separated as a Operable Unit (evaluating soil only). As Amtrak stated on Friday, sampling work will be done this week to meet TSCA requirements. DNREC would suggest that additional TAL/TCL analysts be evaluated for a number of samples. I would suggest a minimum 10 surface and 10 subsurface samples that would include at least a ten foot buffer outside the footprint of the building. Once that data is obtained, DNREC can issue a Proposed Plan at the same time a Remedial Investigation report is being drafted by Stantec. Depending on your turnaround time for these samples, DNREC may be able to issue a Proposed Plan during April to meet your schedule but time is of the essence.

Please inform DNREC on your course of action. In addition, DNREC requests copies of workplans completed to meet the objectives of HSCA or TSCA. If you have any addition questions, please let Qazi, John or me know. We can be reached at 302 395-2600.

Sincerely,
Tim

Timothy Ratsep

Administrator
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